

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

**Petition of the Cellular Telecommunications
and Internet Association for a Rulemaking to
Establish Fair Location Information Practices**

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WT Docket No. 01-72

To: The Commission

COMMENTS OF DOBSON COMMUNICATIONS CORPORATION

Dobson Communications Corporation ("Dobson"), on behalf of its subsidiaries and affiliates, and pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419, hereby files its comments in response to the Commission's Public Notice seeking comment on the above-captioned petition for rulemaking ("Petition").¹ Specifically, the Cellular Telecommunications and Internet Association ("CTIA") has requested the FCC to initiate a rulemaking proceeding to establish fair location information practices with respect to wireless location-based service offerings. For the reasons discussed below, Dobson supports CTIA's request and agrees that the FCC should initiate the requested rulemaking proceeding.

Dobson is a leading provider of rural and suburban, commercial mobile wireless services throughout the country. Consistent with its enhanced 911 "Phase II" obligations and as previously reported to the Commission, Dobson will implement available technology to enable it to provide location information to public safety answering points. Dobson also foresees the possible future use of this type of technology to provide location-specific services to its

¹ *Wireless Telecommunications Bureau Seeks Comment on Request to Commence Rulemaking to Establish Fair Location Information Practices*, Public Notice, DA 01-696 (rel. Mar. 16, 2001).

customers, in conjunction with third-party content providers and merchants. Therefore, Dobson encourages the FCC to commence a rulemaking which would establish federal regulatory standards governing the privacy of location information. In this way, Dobson could tailor its location information practices to be consistent with FCC rules, so that it could take advantage of a regulatory safe harbor while also acting consistent with customer expectations.

I. AS REQUESTED BY CTIA, THE FCC SHOULD INITIATE A RULEMAKING PROCEEDING TO ESTABLISH FAIR LOCATION INFORMATION PRACTICES.

Dobson supports CTIA's request to commence a rulemaking on this matter. As CTIA rightly points out, use of wireless mobile services, including wireless Internet and mobile-commerce, is growing at a substantial pace.² Furthermore, the advent of wireless location-based services has the potential to provide numerous public benefits, including the ability for the public to obtain valuable location-sensitive information and to achieve a higher level of personal safety by being able to communicate their location to emergency service providers.

While Dobson believes there will be great interest in the provision of location-based services, there is a real concern about the potential for misuse of personal location information. Thus, it is important that the FCC promptly act on CTIA's petition and commence the requested rulemaking. By so doing, the FCC can put a regulatory framework in place so that both service providers and consumers will understand the manner in which location information is used.

² Petition at 3-4.

Dobson also agrees with CTIA that the FCC should pursue a rulemaking on privacy of location information on a track separate from the CPNI docket.³ The issue of privacy of mobile location data is unique to the wireless industry, and is thus best addressed in a proceeding that does not involve the numerous other matters involved in the CPNI docket. Furthermore, by initiating a specific rulemaking for privacy of location information, the Commission will foster more focussed comment on wireless location issues. Finally, by addressing wireless location information in a separate docket, the Commission will be better able to timely resolve the issues involved without delays caused by consideration of unrelated matters.

II. THE FCC SHOULD ADOPT A SAFE HARBOR OF FAIR LOCATION INFORMATION PRACTICES IN ORDER TO PROTECT WIRELESS PROVIDERS FROM LIABILITY AND INDIVIDUALS FROM IMPROPER DISCLOSURE OR USE OF THEIR LOCATION INFORMATION.

As part of its petition, CTIA has proposed certain fair location information principles.⁴ These principles, which include notice, consent, security/integrity, and technology neutrality, are consistent with the Federal Trade Commission's ("FTC") fair information practices and with self-regulatory trends.⁵ Furthermore, CTIA has also appropriately tailored its principles to the unique characteristics of wireless location-based services.⁶ Dobson therefore believes that

³ See *id.* at 8.

⁴ *Id.* at 8-11.

⁵ Many companies have adopted Internet privacy policies that are consistent with these elements of fair information practices.

⁶ These unique characteristics, in contrast to desktop computers, include the relatively small screen sizes of wireless devices which limit the ability of service providers to provide a privacy notice directly to the hand-held device.

CTIA's proposed principles are well-founded, and that the Commission should seek comment on these principles as part of the requested rulemaking proceeding.

The object of fair location information principles should be to ensure that the public is given the opportunity to provide informed consent prior to the use or disclosure of location information, and that such information is adequately protected and secure. If carriers develop and implement privacy policies based on FCC-sanctioned fair location information principles, they should be shielded against potential claims that they have used such data in a manner inconsistent with individual expectations. Indeed, it is essential for the success of location-based services that the Commission adopt safe harbor guidelines so that service providers may follow such practices with the confidence that their actions will not expose them to liability.

III. BY INITIATING THE REQUESTED RULEMAKING, THE COMMISSION CAN ADOPT UNIFORM STANDARDS FOR THE HANDLING OF LOCATION INFORMATION.

In granting CTIA's petition, the Commission should also consider the adoption of a federal regulatory scheme that preempts conflicting state laws. Many states have either adopted or are considering adopting privacy legislation, which would make compliance by regional operators such as Dobson difficult to achieve. The FCC has already determined that it would exercise its preemption authority on a case-by-case basis with respect to conflicting state CPNI rules.⁷ Particularly with respect to location information, however, the FCC should propose adopting standards at the federal level which would more definitively preempt conflicting state

⁷ *Implementation of the Telecommunications Act of 1996; Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC Docket No. 96-115, *Order on Reconsideration and Petitions for Forbearance*, 14 FCC Rcd 14409, 14465-14467 (1999).

law. Such a proposal would be consistent with the approach of existing legal frameworks that broadly address the privacy of personal information, such as the FTC's Fair Information Practices (directed at consumer-oriented commercial websites that collect personally identifying information from or about consumers online), the Gramm-Leach Bliley Act (addressing disclosure by financial institutions of their privacy policies regarding the sharing of non-public personal information), the Children's Online Privacy Protection Act (regulating unfair or deception actions or practices in connection with the collection, use, and/or disclosure of personal information from and about children on the Internet), and the EU Privacy Directive (which provides safe harbors for U.S. businesses that collect data in Europe). The FCC should therefore take the opportunity in a rulemaking on privacy of location information to seek comment on the utility of establishing a federal standard in this area which preempts state laws.

IV. THE PROPOSED RULEMAKING PROCEEDING SHOULD ADDRESS TECHNOLOGY-NEUTRAL ASPECTS OF FAIR LOCATION INFORMATION PRACTICES.

CTIA recommends that any fair location information practices the FCC may adopt in a future rulemaking proceeding be applicable to any technology that is used to obtain location information.⁸ Dobson agrees, and further recommends that the FCC include as a topic for comment whether the issue of technology neutrality should apply as a general matter to the variety of wireless protocols (CDMA, TDMA, GSM) and devices (phones, PDAs, etc.) in use. Further, the FCC should seek comment on the responsibilities of service providers who obtain location information from roaming customers.

⁸ Petition at 11.

CONCLUSION

For the foregoing reasons, Dobson supports CTIA's petition and urges the Commission expeditiously to initiate a rulemaking proceeding on fair location information practices for the wireless telecommunications industry.

Respectfully submitted,

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